Remarks

G. R. S. IX-5]

Previous references.

File No. 53-21

1921.

Serial Nos. 627

(LB)

Later references.

LB 130-2-83 1-3

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 627

Part B for July 1922

SUBJECT.

Proceedings of the Kolar Gold Fields Sanitary Board

To the Dy Com'r & President, Sany Bd, K.G.F.

Sly. No L 120 dy 7.7.1922

With reference to Resn No 4 of the Board making it obligatory on the Presdt to send a report return to the Bd showing the kind and nature of disciplinary action taken by the Executive, States that the Bd cannot deprive the President of the right he has of direct approach to Govt but if they want to discuss the report of the action taken against the Market Serjeant fullest opportunity should be given to them by the President

WD 1888—GPB—16,626—25-7-21

7185

G. R. S. 11) 1922

GENERAL AND REVENUE SECRETARIAT.

( )

NOTES.

L B. File No. 53 of

FILE HEADING.

Proceedings of the Kolar Gold Fields Sanitary Board

From

The President, Sanitary Bd, K.G.F.

No. C 670 Dated 26.5.22 / 28 Received 30.5 / 12.6.22

Diary No. 7195	Enclos.	Spare Copies.	Serial No. 6

BRIEF ABSTRACT OF LETTER.

Points out the necessity for amending Resolution 4 of the Special meeting of the Board held on the 3rd March 1922.

NOTES AND ORDERS.

Submitted with L B file 185 of 12 Slot 5 containing the rules referred to in para 1 of the letter. The file regarding the market sergeants' case is subd separately.

~~The Board's interpretation of the rules~~

~~does not seem to be correct.~~

K K

L B 670.

7/21

NOTES—First Sheet.

Please put up
[illegible] opinion
13/6/22

13/6/22

Resubd
22/6/22

Mr. Pearce to write a
early letter to Mr. Tilly from

(2)

G. R. S. III-2

General and Revenue Secretariat. | L B File No. 53 of 1924-25

Serial No.

(2) Section I, Rule 6 of the Rules issued by Govt. in March 1916 about the constitution and functions of the K. G. F. Sanitary Board reads as follows :—

"The Sanitary Board may, with the approval of Govt. and from the funds from time to time placed at its disposal, appoint Sanitary Inspectors, Assistant Sanitary Inspectors and such Establishments of mestries, sweepers, scavengers, watchers and other servants as may be necessary for the proper sanitation of the local area."

The rule specifies only certain appointments which are within the powers of the Board to ~~By reading to mean~~ ~~Creating~~ [creating] ~~Appointing~~ in this rule is create appointment rather than nominate to appointment By ~~make~~ and so, the Resolution of the Board to the effect that "all appointments lie in the hands of the Board" does not appear to be warranted by the Rule as it stands. At the same time, it cannot be contended that the Board can possibly have no voice in the appointment, removal or suspension of any officer not specifically mentioned in the Rule. Even if the Govt is the final authority in such cases, it should certainly be open to the Board to make their re-

NOTE—Contn. sheet.

7195

G. R. S. III-2]

General and Revenue Secretariat. | L B File No. 53 of 19 21-22

Serial No.

commendations in the matter. The President as the head of the Board, can exercise certain powers independently, but he cannot altogether ignore the Board in the exercise of other powers. If the Board insist upon the report against the Market Sergeant being placed before them before being submitted to Govt, it would be desirable for the President to comply. It would of course be open to him to submit the resolution of the Board to Govt. with his own opinion on the subject.

Rev Secy) 26/5/22

(3) There is apparent inconsistency in the President's letter. In para 2 he says "The Board want that all disciplinary measures adopted by the Executive officers in respect of the Sanitary Staff should be made known to them. I have nothing to say against this part of the proposition." And yet he argues, "At the last meeting, they wanted that my final report to Govt in re David's case should pass through them at a special meeting to be called for the purpose. It seems, in my opinion,

To make another known that Board is different from the question of the power of the President to approach the Govt direct. The President may have the power to [illegible] but that does not mean that he should exercise that power.

NOTE—Contra shown

(4

G. R. S. III-2]

General and Revenue Secretariat.

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Serial No.

undesirable to allow the non offl element ~~especially xxx~~, to preponderate to such an extent as to remove all vestige of offl influence over the Board & to make the President powerless, especially in the exercise of discipline among the powers of the establishment. ~~xxx~~ It seems to be superfluous & undesirable to assign this function (revising Presidents work) to the Board." It seems rather too much for the Board to think of subjecting my decision to their inspection & consideration." Again, all this argument is not quite to the point, ~~as it is~~ as it is neither directed against what the Board have resolved in respect of discipline in general (which the President himself admits as reasonable) nor against what they have requested in re: Mr David (which is merely that the President's letter may be placed before the Board Receipt of Govt. with their opinion) and which does not involve any annulling or interference as pointed out by the Hon'ble, the President has the chance of the last say in his letter to Govt, and therefore he need not prejudge the Board their chance.

As regards their out voting him, it may be noted that no one need be afraid of opposition which is ~~not~~ of the

NOTE—Contn. sheet.

General and Revenue Secretariat.

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essence of Board & committee work.
Mr Mecci is too bureaucratic
and, in his view, outvoting a President
is disastrous. ~~But the~~ ~~the~~ ~~~~
~~This~~ This affords no argument
either to decide the issue raised.
As regards the suggestion in para 4
of the letter that Off members should vote
with the President, Mr Mecci may perhaps
be informed that even in the Indian
Legislature where much larger questions
are discussed & greater stakes are involved
Off members ordinarily have been
given the right to vote as they think.
The only point Mr Mecci can
be said to have established is
that the word "appoint" in the Rule
can mean only "create appointments"
& not "nominate to appointments."
This seems to be the correct view.
But this does not mean either that they
have no power to review appointments made
by the Executive. Such power is inherent
in all such bodies & the President can & does
it only on its behalf. Where in the
interests of daily admn an executive

NOTE—Contn. sheet.

Serial No.

authority (e.g. Comr or Chief Offr) is given independent powers of appointment & discipline, there should be specific provision for it in the rules or bye-laws. In the absence of such provn, the Board remains supreme as against all offrs acting on its behalf.

I make, the President may be told that ~~the Board~~ the matter may be placed before the Board & his report sent with their resolution thereon.

Brs
26
Dy

6128/6-25 2nd number).

In resolution inserts 4 words pub. In 4th para appoint in regn the Sanitary Board to make appointment and in 2nd para make it obligatory on the president to send a return showing the descriptn Kind & Class many cattle taken by the Municipality

As agreed in 4th para the Municipality Sanitary Board to Sanction and appts ... but not to make individual

NOTE—Contn. sheet.

G. R. S. III-2].

General and Revenue Secretariat.

VB File No. 53 of 1921.

Serial No.	
	appointments. By that Act it is provided by the fact that the Legislature of the Province of Bihar and Orissa may repeal such appointments. But that Act was not brought into force until the appointment of Mr. Hamilton as Member of Council. It is therefore clear that the Governor-in-Council has no power to make the appointment.
	There is however one difficulty in the way. The Act does not define the powers of the President in the absence of the Governor, but it is open to the Board to say that the Governor-in-Council has power to make the appointment. It is usual for such bodies to delegate the powers of the President and since the President has been exercising such powers it may be presumed that the Board has been delegated such powers. But the resolution of the Board is not clear upon the point and the Board's intention must be ascertained as it now stands. It may be interpreted as an affirmation of their right to make such appointments.

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

LB File No. 53 of 1922

Serial No.

As regards the principle the Board has a right to an enhanced rent but it cannot do so by issuing notice 7. of the Ordinance assessing a rent showing the difference as taken by the Executive Officer, then the Board may ask to frame the assessment by issuing notice for the approval of Govt.

The Principle involved by the Order do not arise in the Resolution and not to be answered by Govt.

6/7/22

As regards the principle involved, the President may be informed that the Board cannot depart from the rent laid down by the approved Govt. rent, but may be asked to decide the appeal. Govt

Draft accordingly

6/7

5/7/22

5/7 for appl

Draft letter to Govt

6/7/1922 (Revsec)

6/7/22

NOTE—Contn. sheet.

G. R. S. III-21

General and Revenue Secretariat.

L.B. File No. 53 of 1921.

Serial No.	
	To the Dy Com^r, L Presd^y Range B^d K.S.D.
	Kolar Dist. No L120 Dy 7.7.1920
	With refce to resn No 4 of the B^d passed (held on 3.3.20) at the meeting stating that the first part of the resolution is to be construed as meaning that the B^d have power to create new appointments and as regards the second part that the B^d cannot deprive the President of the right he has of direct approach to Govt but that if they want to discuss the Presidents' report re Market Sergeant fuller opportunity should be given to them by the B^d

NOTE—Contn. sheet.

27195
REVENUE & JUDL. 30 MAY 1922 LOCAL BRANCH

LB5:3-11-6

From

The Deputy Commissioner &
President, Sanitary Board,
Kolar Gold Field.

To

The Secretary to Government
of Mysore, Revenue Department
Bangalore.

Dated, 26th May 1922.

Despatched. 28.5.22

Received.

General No. C. 670

Encs. 1

Subject.

Submitting report regarding the ne
cessity for ammending a certain reso-
lution of the Sanitary Board, Kolar -
Gold Field.

Compl
Asst: Sec'y. LB.
Please speak about
report to me
Asst
29/5
dcg

Jun 1922

appears to me that this could not have been the object of the framers of the rules or of Government. The word "may" which occurs therein would perhaps be inappropriate if it was meant to signify a rule. I do not see, after all how all appointments do lie in the hands of the Board. For instance, the appointment of the Health Officer, Kolar Gold Field, does not lie in their hands (vide rule 5 of section I of the same Notification) although that officer is paid out of the Board's funds. Nor can the appointments of Revenue Officer and the market sergeant be said to lie in their hands in as much as they come ~~arbitrarily~~ ordinarily within the powers of Government by reason of the appointments carrying a pay of Rs.100/- and above. The clause 6 referred to ~~above~~ begins with Sanitary Inspectors and ends with watchers and other servants. I doubt therefore, whether it has reference to the market sergeant with regards to whom the question arose.

I would therefore submit that whatever might be the line of action that the Board may wish to adopt in the future, regarding the reservation to themselves of the ultimate voice in making all appointments, the bye-laws and rules as they at present stand do not justify the assertion that "all appointments lie in the hands of the Board". I accordingly request you to be so good as to bring the matter to the notice of Government, as I am of opinion that the Board should be called upon to amend their resolution under reference by expunging ther -from the words "that all appointments lie in the hands of the Board and".

It would be as well in this connection to mention the circumstances under which the discussion arose. The suspension of the services of the market sergeant (Mr. David) referred to in my letter No.H.C.324/21-22 dated 20-1-1922 is, it would appear for various reasons not to the taste of the European members of the Board. The discussion at the Board meeting on the 3rd March last went to show clearly that their sympathies were decidedly in favour of the official under sus-

D 3977
(L 87 09 21
Separately
Cl 28)

support the Indian Official view (Mr.Bocquet voting directly - against the resolution and Mr.Pritchard,District Superintendent of Police,remaining neutral),in as much as they always command a majority in the Board. Naturally,the point of view of the President who is an official may,in some cases,differ from that of the non-officials and it seems,in my opinion,undesirable to allow the non-official element,specially when it is not very much acquainted with the law of evidence and legal aspects of matters,to preponderate to such an extent as to remove all vestige of official influence over the Board,and to make the President powerless,especially in the exercise of discipline among the members of the establishment.

While there is always the Government to supervise the work of the President,review his reports,Judge,criticise or rectify his actions,it seems to be superfluous and undesirable to assign this function to the Board.

While as already reported I have shown every possible concession to Mr.David,it seems rather too much for the Board to think of subjecting my decision to their inspection and consideration before submission to Government,as if the interests of justice could not be safe in the hands of Government.

I would therefore solicit the instructions of Government as to whether it is necessary to call up a special meeting as desired by the European members and whether the report should pass through them.

I request the favour of very early orders.

I have the honour to be,

Sir,

Your most obedient servant,

Deputy Commissioner &

President,Sanitary Board,T.C.

DK.

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to L 7195

General and Revenue Secretariat

(LB)

, *the* 191

Date of issue 7/7/25

Signed by Dr Subbarayappa

Section LB

File No. 53-21

Serial No. 7

No. L 120

To The Dy Conr & Asst Land
B, Kolar Gold Fields

Sir

With reference to your
letter No C 670 & 26 dtd 6/2
Soliciting orders on resolution
Nos of the Board recorded at
the special meeting held on the 3rd
March 25 I am directed
to observe that the resolu
tion in question consists of two
parts —
points i.e (1) affirms the

over.

the right of the Board to
make appointments and ( )
make it obligatory on the
President to send a return
showing the kind and nature
of disciplinary action taken
by the Executive.

2. As regards the first
part I am to state that, rule 6
~~the State taken by the~~ part
~~the~~ Sec I of the rules for
the Special Sanitation of
the K.G.F. area ~~State~~ says
that the previous approval
of Govt is necessary for
the Board appointing the
Officials named therein. The
word "appoint" in the rule
means "create appointments"
rather than "nominate
to appointments". There
however is one defect in the rules
in question. They do not
define the powers of the President

List of enclosures.

Copied by

Examined by

G. R. S. G/33]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

In the absence of an express provision it is open to the Board to say that the executive power vests in them. It is usual for local bodies like the Savg Bd to delegate their executive powers to the President & since the President has been exercising such powers it must be presumed that the Board has tacitly delegated such powers. The resolution of the Board is not however clear upon the point of the Boards' interference with the executive and as it now stands it may be interpreted as an affirmation of their right to create new appointments

WD 2230—GPB—1,00,000—23-7-20

3. As regards the other point I am to say, that the Board has a right to call for a return and they can do so only under rule 7 of Sec I. the rules in question. If the submission of a return shewing the disciplinary action taken by the Executive is to be a rule of business, then the Board may be asked to frame the necessary by-laws and submit them for the approval of Govt.

4. With reference to the concluding portion of your letter I am to observe that Solicitors in stamping &c whether they report against about the Market

Sd/- [illegible]

G. R. S. G/[illegible]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

Should pass thro' the B^d

VI

Master Sergeant

I am to observe, that the Board cannot deprive ~~him~~ the President of the right ~~he has~~ he has of direct approach to the Govt that if they want to discuss his report. ~~You should~~ ~~put the~~ fullest opportunity should be given to them by the President

I have etc

By Order
Secy to Govt

HK
6.7.1922

Rev Dept.